

AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 328

**Introduced by Committee on Judiciary (Senators Escutia
(Chair), Ackerman, Cedillo, Ducheny, Kuehl, Morrow, and Sher)**

February 19, 2003

An act to amend Sections 70303, 70366, 70367, ~~and 70374~~ 70373, 70373.5, 70374, 70392, and 76000 of the Government Code, relating to court facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 328, as amended, Committee on Judiciary. Court facilities: funding.

(1) Existing law imposes a surcharge on appearance fees in civil actions, as specified, to be deposited in the Court Facilities Trust Fund in order to provide additional funds for maintaining and expanding the uniform accessibility of the courts and judicial process throughout the state.

This bill would clarify the application of, and revise the collection procedure for, that surcharge. The bill would also clarify provisions governing the responsibilities and authority of the Administrative Office of the Courts regarding court facilities.

(2) Existing law prescribes procedures for calculation of the county facilities payment that each county is required to remit for deposit into the Court Facilities Trust Fund and establishes the Court Facilities Dispute Resolution Committee to resolve disputes between a county and the Judicial Council regarding, among other things, the amount of that county facilities payment. Existing law also establishes the State Court Facilities Construction Fund and specifies that money in that fund may be used only for designated purposes.

This bill would correct erroneous references in those provisions.

(3) *Existing law establishes an additional penalty to be assessed by each county on fines, penalties, and forfeitures imposed for criminal offenses for the local courthouse construction fund, as specified for each county.*

This bill would increase that additional penalty for Fresno County from \$5 to \$7.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 70303 of the Government Code is
- 2 amended to read:
- 3 70303. (a) The Court Facilities Dispute Resolution
- 4 Committee is hereby created to hear and determine disputes
- 5 between a county and the Judicial Council as specified by this
- 6 chapter.
- 7 (b) The committee shall consist of the following members:
- 8 (1) One person selected by the California State Association of
- 9 Counties.
- 10 (2) One person selected by the Judicial Council.
- 11 (3) One person selected by the Director of Finance.
- 12 (c) The committee shall hear and make recommendations to the
- 13 Director of Finance for determinations in disputes involving the
- 14 following matters:
- 15 (1) Buildings rejected for transfer of responsibility because of
- 16 deficiencies as provided in Section 70328.
- 17 (2) Failure to reach agreement on transfer of responsibility for
- 18 a building as provided in Section 70333.
- 19 (3) Disputes regarding the appropriateness of expenditures
- 20 from a local courthouse construction fund as provided in Section
- 21 70403.
- 22 (4) County appeal of a county facilities payment amount as
- 23 provided in Section 70366.
- 24 (5) Administrative Office of the Courts appeal of a county
- 25 facilities payment amount as provided in Section 70367.
- 26 (d) Upon receipt of the recommendation from the committee,
- 27 the Director of Finance shall make the final determination of the
- 28 issue in dispute.



(e) The expenses of members of the committee shall be paid for by the agency or organization selecting the member.

(f) The Judicial Council, the California State Association of Counties, and the Department of Finance shall jointly provide for staff assistance to the committee.

(g) Regulations and rules adopted by the committee shall be exempt from review and approval or other processing by the Office of Administrative Law required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

SEC. 2. Section 70366 of the Government Code is amended to read:

70366. (a) Within 30 days after the Administrative Office of the Courts has mailed the county the approved county facilities payment, pursuant to subdivision (d) of Section 70363, the county may submit a declaration to the Court Facilities Dispute Resolution Committee, with the mailing of copies to the other parties, that the amount is incorrect for one or more of the following reasons:

(1) Expenditure data is reported incorrectly or calculated incorrectly and causes an approved county facilities payment amount that is higher than the payment should be.

(2) The approved county facilities payment includes amounts that were specifically appropriated, funded, and expended by the county to fund extraordinary one-time expenditures. Extraordinary one-time expenditures do not include periodic major facility repair or maintenance including, but not limited to, reroofing or replacement of a major system component. Extraordinary one-time expenditures do include, but are not limited to, abatement of asbestos and seismic structural upgrades.

(3) The approved county facilities payment includes expenses funded from grants or subventions that would not have been funded without these grants or subventions.

(b) The Administrative Director of the Courts shall mail comments to the Court Facilities Dispute Resolution Committee on the county's declaration within 30 days of the mailing of the county's declaration, with the mailing to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received,

1 and make its recommendation to the Director of Finance
2 concerning correction of any errors and, if necessary, adjustment
3 of the amount of the county facilities payment. The Court
4 Facilities Dispute Resolution Committee shall mail a copy of its
5 recommendation to all the parties.

6 (d) The Director of Finance or his or her designee shall review
7 the recommendations of the Court Facilities Dispute Resolution
8 Committee and make his or her determination concerning any
9 correction of errors and, if necessary, adjustment of the amount of
10 the county facilities payment. The director shall mail a copy of his
11 or her determination on all the parties.

12 SEC. 3. Section 70367 of the Government Code is amended
13 to read:

14 70367. (a) Within 30 days after the Administrative Director
15 of the Courts has mailed to the county, pursuant to subdivision (d)
16 of Section 70363, the approved county facilities payment, the
17 Administrative Director of the Courts may submit a declaration to
18 the Court Facilities Dispute Resolution Committee, mailing of
19 copies to the other parties, that the amount is incorrect because the
20 county failed to report court facilities expenses paid by the county
21 which reduced the amount of the approved county facilities
22 payment.

23 (b) The county shall mail its comments to the Court Facilities
24 Dispute Resolution Committee on the administrative director's
25 declaration within 30 days of the mailing of the administrative
26 director's declaration, with mailing to the other parties.

27 (c) Within 90 days of receipt of comments pursuant to
28 subdivision (b), the Court Facilities Dispute Resolution
29 Committee shall review the declarations and comments received,
30 and makes its recommendation to the Director of Finance
31 concerning correction of any errors and, if necessary, adjustment
32 of the amount of the county facilities payment. The Court
33 Facilities Dispute Resolution Committee shall mail a copy of its
34 recommendation to all the parties.

35 (d) The Director of Finance or his or her designee shall review
36 the recommendations of the Court Facilities Dispute Resolution
37 Committee and make his or her determination concerning any
38 correction of errors and, if necessary, adjustment of the amount of
39 the county facilities payment. The director shall serve a copy of his
40 or her determination on all the parties.

SEC. 4. *Section 70373 of the Government Code is amended to read:*

70373. (a) To provide additional funds for maintaining and expanding the uniform accessibility of the courts and judicial process throughout the state, the following surcharges are added to the *total fee for filing the first appearance fee paper by a party* in the following actions:

(1) A surcharge in all ~~general~~ unlimited civil, family law, and probate actions, as follows:

(A) Ten dollars (\$10) from January 1, 2003, through December 31, 2003.

(B) Fifteen dollars (\$15) from January 1, 2004, through December 31, 2007.

(2) A surcharge of twenty-five dollars (\$25) in all limited civil actions.

(b) The clerk of the court shall collect the surcharge and transmit it to the *county treasury*. *The county treasurer shall transmit the funds monthly to the State Controller*, to be deposited in the State Court Facilities Construction Fund. Notwithstanding any other provision of law, the full amount of the surcharge collected shall be deposited as provided in this section.

SEC. 5. *Section 70373.5 of the Government Code is amended to read:*

70373.5. (a) Notwithstanding paragraph (2) of subdivision (a) of Section 70373, a surcharge of eighteen dollars (\$18) shall be added to the first appearance fee in all limited civil actions *in lieu of the twenty-five dollar (\$25) fee provided by that section*.

(b) The surcharge provided for in this section and Section 70373 are not subject to the percentage surcharge authorized by Section 68087.

(c) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.

SEC. 6. Section 70374 of the Government Code is amended to read:

70374. (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for projects paid for with money in the State Court Facilities

1 Construction Fund. The use of the appropriated money is subject
2 to subdivision (l) of Section 70391.

3 (b) Facilities shall be subject to the State Building Construction
4 Act of 1955 (commencing with Section 15800) and the Property
5 Acquisition Law (commencing with Section 15850), except that
6 notwithstanding any other provision of law, the Administrative
7 Office of the Courts shall serve as an implementing agency upon
8 approval of the Department of Finance.

9 (c) Money in the State Court Facilities Construction Fund shall
10 only be used for either of the following:

11 (1) To acquire, rehabilitate, construct, or finance court
12 facilities, as defined by subdivision (d) of Section 70301.

13 (2) To rehabilitate one or more existing court facilities in
14 conjunction with the construction, acquisition, or financing of one
15 or more new court facilities.

16 (d) Twenty-five percent of all money collected for the State
17 Court Facilities Construction Fund from any county shall be
18 designated for implementation of trial court projects in that
19 county. The Judicial Council shall determine the local projects
20 after consulting with the trial court in that county and based on the
21 locally approved trial court facilities master plan for that county.

22 (e) Any money in the fund that is appropriated for use on a
23 project that is not needed for completion of that project shall be
24 returned to the fund. The amount shall then be divided between the
25 fund and other state funds in the same proportion that the original
26 sources of money for the project came from the fund and other
27 state funds.

28 *SEC. 7. Section 70392 of the Government Code is amended to*
29 *read:*

30 ~~70392. Pursuant to paragraph (2) of subdivision (b) of Section~~
31 ~~70374~~ *Except as otherwise specifically provided by law, the*
32 *Administrative Office of the Courts shall have the following*
33 *responsibilities and authority in addition to other responsibilities*
34 *and authority granted by law or delegated by the Judicial Council:*

35 (a) Notwithstanding any other provision of law and subject to
36 the appropriation of funds, provide the ongoing oversight,
37 management, operation, and maintenance of facilities used by the
38 trial courts, if the responsibility for the facility has been transferred
39 to the Judicial Council pursuant to this chapter.

(b) Carry out the Judicial Council's policies with regard to trial court facilities, except as otherwise expressly limited by law.

(c) Develop for Judicial Council approval the master plans for trial court facilities in each district.

(d) Construction of court buildings, including, but not limited to, selection of architects and contractors, except as otherwise expressly limited by law.

(e) Delegate its responsibilities and authority to the local trial court for court facilities used by that court.

SEC. 8. Section 76000 of the Government Code is amended to read:

76000. (a) In each county there shall be levied an additional penalty of seven dollars (\$7) for every ten dollars (\$10) or fraction thereof which shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents (\$2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents (\$2.50). These moneys shall be taken

1 from fines and forfeitures deposited with the county treasurer prior
2 to any division pursuant to Section 1462.3 or 1463.009 of the
3 Penal Code. The judges of the county shall increase the bail
4 schedule amounts as appropriate to reflect the added penalty
5 provided for by this section. In those cities, districts, or other
6 issuing agencies which elect to accept parking penalties, and
7 otherwise process parking violations pursuant to Article 3
8 (commencing with Section 40200) of Chapter 1 of Division 17 of
9 the Vehicle Code, that city, district, or issuing agency shall observe
10 the increased bail amounts as established by the court reflecting the
11 added penalty provided for by this section. Each agency which
12 elects to process parking violations shall pay to the county
13 treasurer two dollars and fifty cents (\$2.50) for each fund for each
14 parking penalty collected on each violation which is not filed in
15 court. Those payments to the county treasurer shall be made
16 monthly, and the county treasurer shall deposit all those sums in
17 the authorized fund. No issuing agency shall be required to
18 contribute revenues to any fund in excess of those revenues
19 generated from the surcharges established in the resolution
20 adopted pursuant to this chapter, except as otherwise agreed upon
21 by the local governmental entities involved.

22 (c) The county treasurer shall deposit one dollar (\$1) of every
23 two dollars and fifty cents (\$2.50) collected pursuant to
24 subdivision (b) into the general fund of the county.

25 (d) The authority to impose the two-dollar-and-fifty-cent
26 (\$2.50) penalty authorized by subdivision (b) shall be reduced to
27 one dollar (\$1.00) as of the date of transfer of responsibility for
28 facilities from the county to the Judicial Council pursuant to
29 Article 3 (commencing with Section 70321) of Chapter 5.1, except
30 as money is needed to pay for construction provided for in Section
31 76100 and undertaken prior to the transfer of responsibility for
32 facilities from the county to the Judicial Council.

33 (e) The seven dollar (\$7) additional penalty authorized by
34 subdivision (a) shall be reduced in each county by the additional
35 penalty amount assessed by the county for the local courthouse
36 construction fund established by Section 76100 as of January 1,
37 1998, when the money in that fund is transferred to the state under
38 Section 70402. The amount each county shall charge as an
39 additional penalty under this section shall be as follows:

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1	Alameda	\$5.00	Marin	\$5.00	San Luis Obispo	\$6.00
2	Alpine	\$5.00	Mariposa	\$2.00	San Mateo	\$4.75
3	Amador	\$5.00	Mendocino	\$7.00	Santa Barbara	\$3.50
4	Butte	\$6.00	Merced	\$5.00	Santa Clara	\$5.50
5	Calaveras	\$3.00	Modoc	\$4.00	Santa Cruz	\$7.00
6	Colusa	\$6.00	Mono	\$5.00	Shasta	\$3.50
7	Contra Costa	\$5.00	Monterey	\$5.00	Sierra	\$7.00
8	Del Norte	\$5.00	Napa	\$3.00	Siskiyou	\$5.00
9	El Dorado	\$5.00	Nevada	\$5.00	Solano	\$5.00
10	Fresno	\$5.00 \$7.00	Orange	\$3.50	Sonoma	\$5.00
11	Glenn	\$4.06	Placer	\$4.75	Stanislaus	\$5.00
12	Humboldt	\$5.00	Plumas	\$5.00	Sutter	\$3.00
13	Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00
14	Inyo	\$4.00	Sacramento	\$5.00	Trinity	\$4.26
15	Kern	\$7.00	San Benito	\$5.00	Tulare	\$5.00
16	Kings	\$7.00	San Bernardino	\$5.00	Tuolumne	\$5.00
17	Lake	\$7.00	San Diego	\$5.00	Ventura	\$5.00
18	Lassen	\$2.00	San Francisco	\$6.99	Yolo	\$7.00
19	Los Angeles	\$5.00	San Joaquin	\$3.75	Yuba	\$3.00
20	Madera	\$4.50				

